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**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric  
Company to Establish a Demonstration  
Climate Protection Program and Tariff Option

Application No. 06-01-012

**PACIFIC GAS AND ELECTRIC COMPANY'S OPENING  
COMMENTS ON ALTERNATE PROPOSED DECISION  
ESTABLISHING A DEMONSTRATION CLIMATE  
PROTECTION PROGRAM AND TARIFF OPTION**

GAIL L. SLOCUM  
ANDREW L. NIVEN

Pacific Gas and Electric Company  
77 Beale Street  
San Francisco, CA 94105  
Telephone: (415) 973-6583  
Facsimile: (415) 973-0516  
E-Mail: GLSg@pge.com

Attorneys for  
PACIFIC GAS AND ELECTRIC COMPANY

Dated: December 4, 2006

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## **SUBJECT INDEX LISTING MAJOR RECOMMENDED CHANGES (Rule 14.3(b))**

### **1. MINIMUM PERFORMANCE GUARANTEE**

The PD's proposed 1.5 million ton GHG reduction minimum performance guarantee is inappropriate for a first-in-the-nation demonstration project and should be rejected because it could punish, but would not reward, PG&E for innovating and heeding the CPUC's call for California IOUs to come forward with leading new approaches on Climate Change.

### **2. CONTRACTUAL COMMITMENT RESTRICTION**

The APD, through Ordering Paragraph 12, unreasonably restricts PG&E in its ability to effectively manage the CPT to achieve cost-effective GHG reductions, particularly in light of upcoming regulatory action. PG&E would be precluded under OP 12 from locking-in current low-cost GHG reductions until 'the dollar amount of the payment obligation is collected'. This restriction is at odds with the APD's minimum performance guarantee. If the Commission chooses to retain the minimum performance guarantee, it is particularly important that this restriction be removed to enable PG&E to begin contracting immediately.

### **3. ABILITY TO COUNT REDUCTIONS TOWARD VOLUNTARY PROGRAMS**

Although the APD properly modifies the PD in recognition that PG&E's customers, such as Cities with voluntary GHG reduction targets, want to use the CPT to help them reach their self-imposed goals, the APD should be slightly modified to clarify that PG&E may not use reductions from its customers' CPT participation to meet PG&E's voluntary reduction goals. To avoid double counting, the APD should state: (1) that all certified GHG reductions achieved by the CPT program must be retired such that they cannot be sold or traded, and (2) that PG&E may not in any way use GHG reductions from its customers' participation in the CPT program to meet emissions reductions required of PG&E.

### **4. CONTRACTING FOR METHANE PROJECTS SHOULD BE ALLOWED WITHOUT PRE-APPROVAL OF AN ADVICE LETTER**

Although PG&E does not believe it is necessary, PG&E does not object to the APD's provision that an advice letter filing be made to document that there is no potential for double counting of emissions reductions from dairy biogas methane projects if PG&E enters into contracts with methane producers who are also selling methane as part of the RPS program. However, approval of such an advice letter should not be a pre-requisite to entering into the contract, as this would delay necessary implementation.

### **5. YEAR-TO-YEAR BUDGET FLEXIBILITY**

The APD's requirement that the annual A&M budget be spent only in a specific program year is unduly restrictive and should be rejected, as it was not proposed by any party in the proceeding; rather, the Commission should allow PG&E to transfer budgeted CPT A&M funding from year-to-year during the full demonstration program. A balancing account meets the need of ensuring

that customers will not contribute more than the authorized budgeted amounts.

## **6. KEY FACTUAL CORRECTIONS**

Various statements in the APD, based on incorrect assumptions, require correction, including:

- Instead of assuming that this is “primarily a residential program” the APD should note that the CPT’s success also depends on significant participation by business customers, whose premiums, because of these customers’ higher total usage, are expected to comprise almost half of the CPT’s funding for GHG reduction projects.
- Instead of only referencing the \$4.31 average monthly premium for the typical residential customer, the APD should specifically adopt the CPT premium which will be charged volumetrically to customers (\$0.00254 per kWh and \$0.06528 per therm exclusive of A&M).
- The basis for the CPT’s assumed \$9.71 per ton forecasted average price per ton for GHG projects is clear. At page 25 the APD states that the [E3] report on which this amount was based “adopts an \$8 per ton figure.” As stated on the record, the report’s \$8 per ton figure was a present value for 2005 based on a 20-year forecast stream of values. PG&E’s CPT rightly looked to the specific values for 2007, 2008 and 2009 to arrive at the CPT’s \$9.71 average.
- The APD should be modified to state that “PG&E expects that the CPT program will cumulatively result in GHG reductions commitments of about 2 million tons of CO<sub>2</sub> by the end of the three-year pilot.” The APD at p.6 says it will result in reductions by the end of three years, but as stated in the record, contractual commitments will be much longer and therefore, the APD should be revised.

## **7. ANNUAL REPORT DUE DATE SHIFT**

PG&E’s annual reports on customer participation should be due on March 15, 2008, 2009 and 2010, instead of January 15, of each such year as the PD provides. The March 15 date is necessary to allow PG&E adequate time to collect and present the previous year’s data to the Commission and other interested parties.

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**I. INTRODUCTION**

Pursuant to Rule 14.3(a) of the Rules of Practice and Procedure of the California Public Utilities Commission (CPUC), Pacific Gas and Electric Company (PG&E) files these comments on the Alternate Proposed Decision (APD) issued by President Peevey on November 14, 2006 in the above-referenced proceeding.

PG&E is pleased overall with the APD – to move forward with this program in fulfillment of the CPUC's commitment to "identify key opportunities for utilities to get out in front and lead on this issue [Climate Change] and initiate efforts that will benefit the California economy, businesses and consumers now and in the years to come."<sup>1</sup> Unlike the PD, the APD correctly allocates administrative and marketing (A&M) costs to all PG&E customers on the basis that all customers benefit from the CPT program. PG&E urges the Commission to revise the APD as presented herein and in the Attachment and adopt it on December 14, 2006 in order to allow for implementation of the program in early 2007.

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<sup>1</sup> "PUC Takes Unprecedented Leadership Role in Addressing Climate Change," CPUC News Release, February 2, 2005 (located at: [http://www.cpuc.ca.gov/published/news\\_release/43602.htm](http://www.cpuc.ca.gov/published/news_release/43602.htm))

## II. THE APD'S ALLOCATION OF A&M TO ALL RATEPAYERS FOSTERS PROGRAM SUCCESS AND PROPERLY PARALLELS OTHER PUBLIC PURPOSE PROGRAMS.

The APD is correct to reject the PD's 50/50 split of the CPT's A&M costs between program participants and the general body of ratepayers,<sup>2</sup> and PG&E commends the APD's discussion, at pp 12 – 19, of the many reasons for doing so, and similar reasons were set forth by PG&E in its November 20, 2006 Opening Comments on the PD. The APD is correct to find that the educational value and diffuse program benefits exceed the program benefits that would accrue to program participants, similar to other ratepayer-funded public purpose programs. The APD's statement (p. 15, lines 20 – 24) that “The disconnect between public and private benefits is particularly acute in the case of the CPT, where benefits received by program participants do not significantly differ from the benefits received by all ratepayers, even though participants will bear the *majority* of the costs of the benefits for a longer period” (emphasis added), is an understatement. In fact, under the APD, CPT enrollees will be paying, on average, 100 to 200 times more than all ratepayers, even though they receive the same GHG reduction benefits. (PG&E Opening Brief, p. 60.) Witnesses for TURN, DRA and Aglet acknowledged during hearings that nonparticipants receive widespread environmental, education and other benefits. (TURN, Roschelle, TR. pp. 267, lines 18 – 23; DRA Greig, TR. p. 383-384; Aglet, Weil, TR. p. 664, lines 5 – 9.)

The APD also correctly finds that assigning 50 percent of the program's operating costs to participants would increase the tariff to a level that would render the program too costly to succeed. Again, this is a conservative understatement. At p. 17 the APD states that the CPT

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<sup>2</sup> However, the APD, at p. 36, lines 6 – 9) still contains the statement “We believe we have built sufficient accountability into the program by requiring PG&E to meet a minimum GHG reduction target, *allocate half of program expenses to CPT customers, ...*” (emphasis added.) Obviously, the latter phrase is an inadvertent carry-over from the PD whose inclusion in the APD appears to have been a typographical error. That phrase should be deleted in the final APD to be consistent with the rest of the text.

premium for the typical residential customer would increase from \$4.31 as proposed by PG&E to \$7.33 under the PD. However, as explained in PG&E's Rebuttal testimony, the premium for the typical residential customer would actually go up to \$8.62 after adjusting to reflect the expected 30% decrease in enrollment due to the CPT's higher cost due to inclusion of A&M expenses. (Exh. 3, p. 1-8.) Obviously, a higher priced CPT will result in less of the product being purchased – a basic economic principle with which no party to the proceeding disagreed. (See PG&E's November 20, 2006 Opening Comments p. 3.) The APD rightly notes that the risks of the PD's approach outweigh the *de minimus* impact of spreading this demonstration program's A&M costs to all customers (APD, p. 17), with the typical residential customer seeing a bill impact of only 2 to 4 cents a month.

### **III. THE APD'S SHAREHOLDER-GUARANTEE SHOULD BE REMOVED BECAUSE IT IS INAPPROPRIATE FOR A NOVEL DEMONSTRATION PROGRAM**

The APD would establish a mechanism requiring that the CPT program purchase a minimum of 1.5 million tons of CO<sub>2</sub>-equivalent reductions by the end of this three-year demonstration program (APD, p. 26). But if CPT premiums proved inadequate to achieve that minimum, the shortfall could be purchased using any remaining A&M funds, with any remaining shortfall funded by PG&E's shareholders. (APD, p. 27, lines 10 – 11.) PG&E's position, as set forth fully on the record, is that such a guarantee mechanism is inappropriate – particularly for a first-of-its-type demonstration program. The APD acknowledges this as a demonstration project by stating that one cannot “predict how many customers PG&E will attract until PG&E has some experience with the program.” (APD, pp. 12-13.) PG&E also notes from record evidence that the nationwide average customer participation rate for investor-owned utilities' (IOUs) green pricing programs is only 1 percent (Exh.1, NREL Report, Appendix C, Table 5, p. 8), which would equate to 500,000 tons of GHG reductions.

#### **IV. RESTRICTION OF CONTRACT COMMITMENTS MUST BE REMOVED**

Ordering Paragraph 12 (APD, p. 47) states “PG&E shall only enter into contract commitments under the CPT as the dollar amount of the payment obligation is collected from enrolled customers.” This condition unreasonably restricts PG&E in its ability to effectively manage the CPT to achieve cost-effective GHG reductions. The restriction would preclude PG&E from taking advantage of low-cost GHG reduction projects that may present themselves for the benefit of the CPT program but may only be available for a small window of time. For example, PG&E might anticipate a significant increase in GHG reduction costs due to future regulatory action on GHG emissions. PG&E would be precluded under O.P. 12 from locking-in current low-cost GHG reductions until ‘the dollar amount of the payment obligation is collected’. The effect of the restriction in OP 12 may result in the CPT experiencing higher GHG reduction costs and lower GHG reductions. This provision is also completely at odds with the minimum guarantee proposal in the APD. If PG&E were to be required to achieve a minimum quantity of GHG reductions, then there is every reason for PG&E to begin contracting for the minimum amount immediately, rather than waiting lest prices rise. Accordingly, this provision should be removed from the APD in its entirety.

#### **V. THE APD’S LANGUAGE SHOULD BE CLARIFIED REGARDING THE ABILITY TO COUNT GHG REDUCTIONS TOWARDS VOLUNTARY PROGRAMS**

PG&E appreciates the important modifications APD made to this section of the PD in order to properly recognize that PG&E’s customers, especially cities with their own voluntary GHG reduction targets, should be able to use the CPT to help them reach their own self-imposed goals, as they have indicated is important to them to be able to do. However, the APD still states that “PG&E shall not use any reduction from the CPT program to meet any mandatory GHG reduction requirement or voluntary GHG reductions commitments.” (APD, p. 30, Conclusion of Law #8.) PG&E, in its sworn testimony, has clearly stated that it will not make any use of reductions from its customers’ CPT participation to meet GHG emissions reduction requirements



binding on PG&E. Nor will PG&E use reductions from its customers' CPT participation to meet PG&E's voluntary GHG reduction goals. PG&E respectfully requests that the APD be modified slightly, consistent with the record (Exh. 1, pp. 1-5 to 1-6), to further clarify this point as follows: Conclusion of Law #8 and page 30 of the APD should include the following language:

“8. All certified GHG reductions achieved by the CPT program must be retired such that they cannot be sold or traded. No retired reduction PG&E may be used to meet and existing or future mandatory GHG emission standard or GHG emission reduction requirement.”

Moreover, the APD's phrase, at p. 30 lines 19 – 20 and in Ordering Paragraph #8 -- “or voluntary GHG reduction commitments” -- should, accordingly be modified, as well.<sup>3</sup>

## **VI. METHANE PROJECTS SHOULD BE ALLOWED; THE RECORD SHOWS DOUBLE-COUNTING DOES NOT EXIST**

The APD discusses the importance of methane projects as reducing one unit of methane is equivalent to reducing 23 units of CO<sub>2</sub>; however, the APD errs in its discussion of “double-counting.” (APD, pp. 40 - 41.) As noted in the record, TURN has misinterpreted language in D.04-06-014 as the Commission states that the seller would have to provide “Environmental Attributes” to the buyer to cover the emission associated with the production of electricity. (PG&E's Reply Brief, p. 37-38.) This language, as well as language in the Appendix of that decision (D.04-06-014, p.2-3), leads to the conclusion that any emission reduction associated with the upstream production of methane are the property of the project owner. Accordingly, ‘manure management’ methane projects should be eligible to apply for CPT funding after Registry protocols are developed. While PG&E does not object to filing an advice letter to document this matter, approval of such an advice letter should not be a pre-requisite to entering into the contract, as this would delay necessary implementation.

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<sup>3</sup> Further, the APD at p. 47 and Ordering Paragraph 11 contain an apparent typographical error that should be corrected to insert a missing word: “trade” between the words “may” and “certified.”

## **VII. BUDGET TRANSFERS BETWEEN PROGRAM YEARS SHOULD BE PERMITTED TO ENSURE PROGRAM SUCCESS**

The APD restricts PG&E from transferring funds between Program Administration and Marketing and more importantly, restricts PG&E from spending budgeted funds in different years from those indicated in Ordering Paragraph 2 on page 46 of the APD without making an advice filing (APD, p.46, Ordering Paragraph 3). PG&E does not object to the restriction on transferring funds between marketing and administration functions. However, PG&E respectfully requests that the restriction on transferring program year spending be eliminated, since it is unfounded and could significantly hinder program success. No party suggested this provision and it was not discussed in the record. It is first discussed in the Ordering Paragraph in which it is mentioned, and accordingly, the provision should be removed. Besides not being discussed in the record, this restriction reduces flexibility. Because the CPT is a first-of-its-kind demonstration program, PG&E needs the flexibility to move money between years in the marketing budget to maximize the level of participation from a limited level of funding. This restriction for transfer between program years without an advice filing should be removed. A balancing account structure ensures that customers will not contribute more to the CPT program for A&M costs for the program than the CPUC-authorized budget.

## **VIII. THE APD REFLECTS MISUNDERSTANDINGS ABOUT KEY ASPECTS OF THE CPT'S DESIGN FOR SUCCESS**

The APD makes statements that perpetuate the PD's misunderstandings of key features of the CPT. For example, the APD does not acknowledge that the proposed premium is actually charged *volumetrically* (\$0.00254 per kWh and \$0.06528 per therm); rather it only references the \$4.31 per month estimate estimated for the typical residential customer. (*see e.g.*, APD p. 4, line 12) Similarly, it states that PG&E will use the funds to contract for GHG reduction projects that “mitigate GHG emissions in an amount *roughly similar* [to] the GHG emissions associated with the average consumer's electricity use.” (*id.* at lines 15 – 16.) In fact the CPT premium was precisely calculated using PG&E's footprint of CO<sub>2</sub> for electricity and the expected average

price per ton of GHG projects during the 2007 – 2009 period to come up with an exact CPT electric premium per kWh, and the same type of precise “footprint-based” process was also used on the natural gas side to arrive at the CPT premium per therm. (Exh. 1, pp. 2-12 to 12-19, line 4-20.) The CPT premium is not based on the “average customer’s electricity use,” and the APD’s current statement to that effect should be amended.

Similarly, the APD reflects an incorrect belief that “PG&E’s program is primarily designed as a *residential* program.” (APD, p. 30, line 7) Such statements erroneously imply almost exclusive residential customer enrollments, whereas the record made it clear that program success will depend on significant levels of business customer sign-ups. (Exh. 3, p. 1-15 lines 10-15) Similarly, the APD’s entire discussion of tax deductibility fails to note that business customers who sign up for the CPT can already deduct their premium as a business expense. However, the record indicated that if the program were changed to a 501(c)(3) structure, some businesses could get a lower deduction than they would if it remained a business expense deduction, due to the ceiling on businesses’ contributions to 501(c)(3)s. (Exh. 3, p. 1-15 lines 20 - 25.) Because premiums from businesses will be critically important to achieving significant GHG reductions through the program, the potential negative impact on businesses’ overall cost to participate that could result from changing the nature of CPT deductibility must also be considered. Yet awareness of this issue was not reflected in the APD.

The APD should also be revised to reflect the clearly stated basis for the CPT’s assumed \$9.71 per ton forecasted average price per ton for GHG projects. At page 25 the APD states that the [E3] report on which this amount was based “adopts an \$8 per ton figure.” As stated on the record, the report’s \$8 per ton figure was a present value for 2005 based on a 20-year forecast stream of values. PG&E’s CPT rightly looked to the specific values for 2007, 2008 and 2009 to arrive at the CPT’s \$9.71 average. (Exh. 1, pp. 2-20 to 2-21.) The APD then goes on to assert that based on its newly-assumed \$8 per ton cost, “PG&E will be able to contract for greater GHG reductions than it assumes, since the per ton cost will be lower than PG&E’s \$9.71 figure.” (APD p. 25, lines 2 – 3.) That statement must be deleted in its entirety and the prior sentence

modified to show that the \$9.71 average cost per ton figure for 2007 – 2009 did indeed directly flow from the E3 Report.

In addition, the APD at p. 6, lines 17 – 18, states that “PG&E expects that the CPT program will cumulatively result in GHG reductions of about 2 million tons of CO<sub>2</sub> by the end of the three-year pilot.” This statement may mislead readers, as not all contracts will be in place by the end of the three year pilot and the reductions will take place over a longer period of time as stated in other places in the APD (p.28, lines 11 - 14). The APD should be modified to state that “PG&E expects that the CPT program will cumulatively result in GHG reductions commitments of about 2 million tons of CO<sub>2</sub> by the end of the three-year pilot.”

#### **IX. DUE DATES FOR ANNUAL REPORTS SHOULD BE CHANGED**

The APD (at p. 35) directs PG&E to file annual reports about the CPT program on January 15 of 2008, 2009, and 2010, including information from January through December of the previous year. PG&E does not object to these reports, but considering that revenues for customer billing cycles including only a portion of December will not be known until late January, a January 15 date is not appropriate or possible. PG&E requests that the due date be modified to *March 15* of 2008, 2009, and 2010. The APD (at page 35, line 1 and at p. 47, Ordering Paragraph 15) should be modified to reflect the March 15, date.

#### **X. CONCLUSION**

For the foregoing reasons, PG&E respectfully requests that the CPUC adopt the APD after modifying it as discussed herein, including making changes to the Findings of Fact and Conclusions of Law set forth in Appendix A, attached hereto. In addition, the CPUC should reject the PD as its allocation of half of the program’s A&M costs to participating CPT customers would cause a dramatic decline in customer participation, significantly harming the success of the program. The PD not only errs because its allocation methodology strays from the structure of other public purpose programs, but then compounds that error by creating a minimum performance guarantee that is improperly based on PG&E’s original stretch aspirations

for CPT participation, estimated under PG&E's originally-proposed lower premium – a stretch that the PD's increased premium would make impossible to achieve. As such, the PD should be rejected. PG&E urges the Commission to adopt the APD after incorporating the modifications presented in PG&E's comments.

Respectfully submitted,

GAIL L. SLOCUM  
ANDREW L. NIVEN

/S/  
By Gail L. Slocum

Pacific Gas and Electric Company  
77 Beale Street  
San Francisco, CA 94105  
Telephone: (415) 973-6583  
Facsimile: (415) 973-0516  
E-Mail: GLSg@pge.com

Attorneys for  
PACIFIC GAS AND ELECTRIC COMPANY

Dated: December 4, 2006

**CERTIFICATE OF SERVICE BY ELECTRONIC MAIL OR U.S. MAIL**

I, the undersigned, state that I am a citizen of the United States and am employed in the City and County of San Francisco; that I am over the age of eighteen (18) years and not a party to the within cause; and that my business address is Pacific Gas and Electric Company, Law Department B30A, 77 Beale Street, San Francisco, CA 94105.

I am readily familiar with the business practice of Pacific Gas and Electric Company for collection and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, correspondence is deposited with the United States Postal Service the same day it is submitted for mailing.

On the 4<sup>th</sup> day of December, 2006, I served a true copy of:

**PACIFIC GAS AND ELECTRIC COMPANY'S OPENING COMMENTS ON  
ALTERNATE PROPOSED DECISION ESTABLISHING A DEMONSTRATION  
CLIMATE PROTECTION PROGRAM AND TARIFF OPTION**

[ X ] By Electronic Mail – serving the enclosed via e-mail transmission to each of the parties listed on the official service list for A.06-01-012 et al. with an e-mail address.

[ X ] By U.S. Mail – by placing the enclosed for collection and mailing, in the course of ordinary business practice, with other correspondence of Pacific Gas and Electric Company, enclosed in a sealed envelope, with postage fully prepaid, addressed to all parties on the official service list for A.06-01-012 without an e-mail address.

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 4th day of December, 2006, at San Francisco, California.

/S/

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ALENE DEYEIN